

EXHIBIT 8

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

- - -

R.W., individually, by and : CIVIL ACTION
through his parent and natural :
Guardian Sarah Williams, and :
SARAH WILLIAMS, individually, :

Plaintiffs, :

v :

DELAWARE DEPARTMENT OF :
EDUCATION, et al. :

Defendants. : NO. 05-662 (KAJ)

- - -

Wilmington, Delaware
Thursday, November 10, 2005 at 9:00 a.m.
PRELIMINARY INJUNCTION HEARING

- - -

BEFORE: HONORABLE **KENT A. JORDAN**, U.S.D.C.J.

- - -

APPEARANCES:

LAW OFFICES
BY: PATRICIA McHALE O'NEILL, ESQ.

Counsel for Plaintiff

DELAWARE DEPARTMENT OF JUSTICE
BY: CRAIG ROMOND FITZGERALD, ESQ.
Deputy Attorney General

Counsel for Delaware Defendants

Brian P. Gaffigan
Registered Merit Reporter

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1 was supposed to go to the Compass School?

2 A. Until the end of the third marking period.

3 THE COURT: Now, ma'am, I'm sorry, Ms. O'Neill.

4 Again ...

5 MS. O'NEILL: If you would like me to move every
6 document in as I hand it up, Your Honor, I would be happy,
7 too. Otherwise, I would submit I intend to move them all
8 into evidence at the same time, simply in the interest of
9 words and time.

10 THE COURT: Actually, it will assist the
11 interest of time if you move them when you use them. That
12 way if there is an objection, I can deal with it at the time
13 instead of after the fact.

14 MS. O'NEILL: Thank you, sir. I would move
15 those, P-6 and 7 be moved into evidence.

16 MR. DOERLER: I have no objection, Your Honor.

17 THE COURT: They're admitted.

18 * * * (Plaintiffs' Exhibit Nos. 8,9 were received into
19 evidence.)

20 MS. O'NEILL: Your Honor -- never mind.

21 BY MS. O'NEILL:

22 Q. Now, when did you -- when, if ever, did you ever
23 learn about what is the -- what is an alternative school?

24 A. The way I learned about what an alternative school
25 was that I called the State Board of Education and asked

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1 them about Compass and they told me it was an alternative
2 school.

3 Q. And did they describe the kind of school it was, for
4 what kind of student?

5 A. No, they send me information.

6 Q. Did anyone ask you did the district do everything it
7 could before sending him to that alternative school?

8 A. Yes. Robin Case asked me had the school district did
9 all that they could for Reggie while he was at Shue School.

10 Q. And what did you respond?

11 A. And I said, I said no.

12 MS. O'NEILL: Your Honor, I need to find
13 something right here. May I please have a minute?

14 THE COURT: Sure.

15 (Pause.)

16 MS. O'NEILL: Thank you.

17 BY MS. O'NEILL:

18 Q. At some point -- I'm going to jump ahead a little.

19 At some point did you receive the Code of Conduct?

20 A. Yes.

21 Q. And give us an approximate date, please.

22 A. Probably around in February 2005.

23 Q. And then did you read the procedures regarding an
24 alternative -- assignment to alternative programs?

25 A. Yes.

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1 Q. Did you know that the conditions which must -- did
2 they give you any idea about the conditions which must be
3 met in order for the student to return to the regular
4 school?

5 A. No.

6 Q. Did you ever talk about that?

7 A. No.

8 Q. Did anyone ever say to you at that December 13th
9 meeting or in this letter that you received subsequent that
10 there is an appeal process?

11 A. No.

12 Q. By the way, while we're here, let's take a minute and
13 look at expulsion procedures. Could you tell us what step
14 one is?

15 A. Step one is listed on the expulsion and student
16 procedure and step one says building level.

17 Q. Now, you had a building level conference, did you
18 not?

19 THE COURT: Just a moment.

20 MR. DOERLER: Your Honor, this student was not
21 expelled so I believe that these are irrelevant.

22 MS. O'NEILL: It's not irrelevant. The school,
23 there is paper that will come forth that indicated it came
24 from the Compass School that stated this child was expelled.

25 THE COURT: Was he expelled?

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1 MS. O'NEILL: She didn't know.

2 THE COURT: Well --

3 MS. O'NEILL: Certainly if you look at the
4 expulsion procedures which talk about a building one level
5 hearing at a district level hearing and what rights attach
6 and then you look at the alternative placement assignment
7 and you say, well, what does attach?

8 THE COURT: Okay. I'm sustaining the objection.
9 There is no evidence other than what people assert was in
10 error and you say it wasn't an error, a letter saying
11 expelled. All the evidence including from Ms. Williams is
12 we're talking about an alternative placement. Now, if you
13 have some other evidence to indicate that he was expelled
14 other than that letter, I'm happy to hear it. Otherwise if
15 that is your evidence, I'll have the book, I can see it, I
16 can read it as well as have her read it from the stand.

17 MS. O'NEILL: I think that the basic -- if I may
18 respond -- that the basic issue is not knowing what kind of
19 hearing was being taken, what was taking place either on the
20 2nd or the 13th and what appeal rights attach. Neither are
21 in this book which she never received, nor was she informed
22 either in a written notice or in an appeal notice of what
23 happened at the December 13th meeting. And the problem is,
24 Your Honor, that subsequent to this, there is another whole
25 scenario which I don't believe is relevant to this

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1 proceeding where this was, there was an appeal to the
2 Delaware Department of Education which was thrown back
3 because certain things, pursuant to their regulations, were
4 not done below in the district. So whether someone is
5 submitting that this was done as a --

6 THE COURT: Let's shorten this up this way. Why
7 don't you tell me, are you contending he was expelled?

8 MS. O'NEILL: I'm contending at no point did
9 mother know what was going on because she never was able to
10 receive this book ahead of time and this is an integral part
11 of what the notice requirement is.

12 THE COURT: Okay. But in order for me to know
13 whether there is a basis for saying expulsion is a relevant
14 inquiry, I need you to step up now and say either yea or
15 nay. Are you contending the student was expelled? Because
16 if you are not contending he was expelled, then what we're
17 talking about is was notice proper for alternative
18 placement, et cetera. Let's focus on that. If you are
19 contending as a matter of fact he was expelled, I guess
20 we'll open up and say okay, we'll talk about expulsion, but
21 if you are not contending he was expelled, it's irrelevant.

22 MS. O'NEILL: Your Honor, with that in mind, I
23 will not discuss that at this time.

24 THE COURT: All right.

25 MS. O'NEILL: What is relevant is what notice

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1 THE COURT: Okay.

2 MS. O'NEILL: The one that we're getting copies
3 of. There would be one more question that would give you a
4 summary of the events that occurred subsequent that really
5 not the focus of what you need to do today but is relevant
6 in that the scenario, the saga did not end at the district
7 level and because I knew we were focusing rather on what
8 happened, I don't want you to -- I just want -- I will ask
9 her a question as to what happened afterwards and ask her
10 just to give a brief summary.

11 THE COURT: That's fine.

12 (Documents passed out.)

13 BY MS. O'NEILL:

14 Q. Ms. Williams, I'm going to hand you what has now been
15 marked P-15 for identification, please.

16 Do you recognize this document?

17 A. Yes.

18 Q. What is it?

19 A. It's a letter from David Sundstrom dated April 11,
20 2005.

21 MS. O'NEILL: Your Honor, I'd like to move this
22 into evidence.

23 THE COURT: It's admitted. P-15 is in.

24 MS. O'NEILL: Thank you.

25 BY MS. O'NEILL:

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1 Q. Did you have a discussion with him on the phone on or
2 about this date that you recall?

3 A. Yes. Looking at this document, yes.

4 Q. And was there a discussion about returning Reggie to
5 school?

6 A. He told me on the phone that he wasn't going to allow
7 Reggie to return to regular school in the Christina School
8 District.

9 Q. And this talks about --

10 THE COURT: Hold on just a moment.

11 MS. O'NEILL: I'm sorry.

12 THE COURT: What is it in this letter, P-15 that
13 tells you he was not going to be permitted to return to any
14 school except an alternative placement?

15 THE WITNESS: Well, Compass School actually
16 belonged to Colonial Schools. Colonial School District.

17 THE COURT: So if I'm understanding you right,
18 you're telling me that on the basis of this April 11, 2005
19 letter which is P-15 in evidence, you understood that the
20 district's position was your son would not be permitted to
21 go to Newark High School?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: Okay.

24 BY MS. O'NEILL:

25 Q. And subsequent to that, did you also have a

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1 refer the case to the district level?

2 A. That's correct.

3 Q. And you didn't ask them any questions about that?

4 A. They just told me it would be referred to the
5 district level.

6 Q. And so you didn't ask any questions?

7 A. I didn't know what questions to ask.

8 Q. And you did receive a copy of the November 19th
9 extension of suspension notice which indicates that the
10 reason for the December 2nd meeting was to schedule for
11 alternative placement meeting; correct?

12 A. I wouldn't know exactly what it was for. All I was
13 told was that I would have to go to the December 13th
14 meeting.

15 Q. But you will agree with me on this form, November
16 19th that it says that both of these meetings are about an
17 alternative placement meeting; correct?

18 A. It's on the same line with alternative placement
19 meeting, yes.

20 Q. And you actually went to the December 13th meeting
21 with an advocate, Mr. Street, and two character witnesses?

22 A. Yes.

23 Q. Okay. And although you didn't know what this was
24 about, you testified you didn't know what the meeting was
25 about, you brought an advocate and witnesses to testify on

Williams - cross

1 your son's behalf?

2 A. That's correct.

3 Q. So you were permitted at the hearing to ask questions
4 of Reggie?

5 A. No.

6 Q. Was Mr. Street permitted to ask questions?

7 A. No.

8 Q. And Reggie was however permitted to tell his side of
9 the story; correct?

10 A. He was asked questions, yes.

11 Q. He was asked questions by Dr. Moody, Dr. Countley,
12 Dr. Jennings?

13 A. Yes.

14 Q. And Mr. Street was able to make arguments on behalf
15 of Reggie at the hearing or at the meeting?

16 A. Mr. Street made statements, yes.

17 Q. Okay. And the character witnesses were permitted to
18 testify on behalf of Reggie?

19 A. They testified to Reggie's character, yes.

20 Q. Okay. And although it's your testimony that you
21 didn't know what the purpose of the meeting was, you brought
22 all these people to testify anyways?

23 A. That's correct.

24 Q. And during this hearing or during this meeting, you
25 became aware that there was an alternative placement at

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1 issue?

2 A. I became aware they was going to send Reggie to
3 Compass at the end of the meeting.

4 Q. Okay. So at the meeting then you discussed the
5 placement at Compass; correct? Or an alternative placement?

6 A. No, that's not correct.

7 Q. So throughout the whole hearing, you went through it
8 and you still didn't know what the hearing was for?

9 A. That's correct.

10 Q. And what did you think you were there for?

11 A. Well, I was there because as they was saying about
12 the incident that Reggie was involved in.

13 Q. Okay. And --

14 A. And getting there, when they hand out all the
15 packets, then after seeing all the statements and
16 everything, and if I had that, then I would have brought
17 other witnesses and be able to question those witnesses that
18 they was utilizing which I was denied that right.

19 Q. I don't think that answered my question. What did
20 you think you were doing when you went to the meeting on the
21 13th? Why did you think they were holding the meeting?

22 A. I had no idea but I knew they told me before Reggie
23 go back to school I would have to go through that meeting,
24 so I had no idea what was going to transpire during that
25 meeting.

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1 Q. At the end of the meeting, you were told that they
2 were going to send Reggie to Compass School until the end of
3 the third marking period; is that correct?

4 A. That's correct.

5 Q. So you were told that at the meeting?

6 A. At the end of the meeting.

7 Q. And you visited Compass and then after that, you
8 decided you wouldn't send him to Compass?

9 A. That's correct.

10 Q. And it's my understanding now that you will not send
11 Reggie to any alternative placement in the school district
12 or outside of the school district other than his regular
13 placement setting; is that right?

14 A. That's correct.

15 Q. You testified about, I believe it was Principal
16 Patton. Is that his name, Patton?

17 A. Yes.

18 Q. That you had a conversation with him about
19 potentially sending Reggie to Kirk Middle School. It's my
20 understanding that he didn't have an understanding as to
21 exactly what Reggie's disciplinary status was; is that
22 right?

23 MS. O'NEILL: I object to that. How does she
24 know what this man thought?

25 MR. DOERLER: I believe she testified earlier

Williams - redirect

1 of that question. It doesn't matter what he thinks.

2 THE COURT: Well, I think it's a fairly posed
3 question and answerable so it's overruled.

4 A. Yes, Mr. Sundstrom did send a letter in April.

5 BY MR. DOERLER:

6 Q. So as of April, you knew your son would have to
7 complete at least a marking period in an alternative
8 placement before returning to his regular placement;
9 correct?

10 A. That's what the April letter said.

11 MR. DOERLER: I have no other questions.

12 THE COURT: All right. Mr. Fitzgerald, do you
13 have any questions, sir?

14 MR. FITZGERALD: Your Honor, I have no questions
15 at this time.

16 THE COURT: All right. Any redirect,
17 Ms. O'Neill?

18 MS. O'NEILL: Just clarification of one matter.

19 THE COURT: Fine.

20 MS. O'NEILL: Thank you.

21 REDIRECT EXAMINATION

22 BY MS. O'NEILL:

23 Q. Ms. Williams, the original suspension, was that to
24 end on the 18th, if you recall?

25 A. Yes.